

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOSEPH JODY,)
Petitioner,)
vs.)
DIRECTOR, OKLAHOMA)
DEPARTMENT of CORRECTIONS,)
et al.,)
Respondents.)

Case No. CIV-14-614-D

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing pro se, has filed an application for leave to proceed in forma pauperis, Doc. 5, and supporting affidavit. United States District Judge Timothy D. DeGiusti referred this matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Having reviewed the application, the undersigned finds that Petitioner has sufficient funds to prepay the filing fee of \$5. Specifically, Petitioner's account reflects a balance of \$298.34. Doc. 5, Att. 1. Because Petitioner does not qualify for authorization to proceed without prepayment of the filing fee, the undersigned recommends that Petitioner's application be denied and that he be ordered to prepay the full \$5 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1). The undersigned further recommends that this action be dismissed without prejudice to refiling unless

Petitioner pays the \$5 filing fee in full to the Clerk of the Court within twenty (20) days of any order adopting this Report and Recommendation.

The undersigned advises Petitioner that he may file an objection to this Report and Recommendation with the Clerk of this Court by August 3, 2014. The undersigned further advises Petitioner that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F. 2d 656, 659 (10th Cir. 1991).

ENTERED this 14th day of July, 2014.



Suzanne Mitchell
SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE